

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

SOVERAIN SOFTWARE LLC,

Plaintiff,

v.

CDW CORPORATION,

NEWEGG INC.,

REDCATS USA, INC.

SYSTEMAX INC.,

ZAPPOS.COM, INC.,

REDCATS USA, L.P.,

THE SPORTSMAN'S GUIDE, INC., AND

TIGERDIRECT, INC.,

Defendants.

Case No. 6:07-CV-00511-LED

JURY TRIAL DEMANDED

**SOVERAIN'S REPLY TO COUNTERCLAIMS OF TIGERDIRECT**

Plaintiff Soverain Software LLC ("Soverain") replies to the corresponding numbered paragraphs of the counterclaims of Defendant TigerDirect, Inc. ("TigerDirect") as follows:

**COUNTERCLAIMS**

1. Upon information and belief, Soverain admits the allegations of Paragraph 1.
2. Soverain admits the allegations of Paragraph 2.

**JURISDICTION AND VENUE**

3. Soverain admits that TigerDirect purports to assert counterclaims under the Federal Declaratory Judgment Act and the patent laws of the United States, but denies that TigerDirect has stated a cause of action or any grounds for such relief.

4. Soverain admits the allegations of Paragraph 4.
5. Soverain admits the allegations of Paragraph 5.

**COUNT I**

**Non-Infringement of the '314 Patent**

6. Soverain repeats its responses to Paragraphs 1-5 above.
7. Soverain denies the allegations of Paragraph 7.
8. Soverain admits that TigerDirect purports to assert counterclaims under the Federal Declaratory Judgment Act and the patent laws of the United States, but denies that TigerDirect has stated a cause of action or any grounds for such relief.

**COUNT II**

**Invalidity of the '314 Patent**

9. Soverain repeats its responses to Paragraphs 1-8 above.
10. Soverain denies the allegations of Paragraph 10.
11. Soverain admits that TigerDirect purports to assert counterclaims under the Federal Declaratory Judgment Act and the patent laws of the United States, but denies that TigerDirect has stated a cause of action or any grounds for such relief.

**COUNT III**

**Unenforceability of the '314 Patent**

12. Soverain repeats its responses to Paragraphs 1-11 above.
13. Soverain admits the allegations of Paragraph 13.
14. Soverain denies the allegations of Paragraph 14.
15. Soverain denies the allegations of Paragraph 15.
16. Soverain admits that at least one of the named inventors of the '314, '492 and '639 patents was aware of DEC's IE-Connection Store; states that it is without knowledge or information sufficient to form a belief as to whether such awareness constitutes "sufficient

knowledge” as alleged and therefore denies that allegation; and denies the remaining allegations of Paragraph 16.

17. Soverain admits that DEC’s IE-Connection Store was not cited during prosecution of the ’314 patent. Soverain denies the remaining allegations of Paragraph 17.

18. Soverain denies the allegations of Paragraph 18.

19. Soverain denies the allegations of Paragraph 19.

20. Soverain admits that TigerDirect purports to assert counterclaims under the Federal Declaratory Judgment Act and the patent laws of the United States, but denies that TigerDirect has stated a cause of action or any grounds for such relief.

#### **COUNT IV**

##### **Non-Infringement of the ’492 Patent**

21. Soverain repeats its responses to Paragraphs 1-20 above.

22. Soverain denies the allegations of Paragraph 22.

23. Soverain admits that TigerDirect purports to assert counterclaims under the Federal Declaratory Judgment Act and the patent laws of the United States, but denies that Tiger Direct has started a cause of action or any grounds for such relief.

#### **COUNT V**

##### **Invalidity of the ’492 Patent**

24. Soverain repeats its responses to Paragraphs 1-23 above.

25. Soverain denies the allegations of Paragraph 25.

26. Soverain admits that TigerDirect purports to assert counterclaims under the Federal Declaratory Judgment Act and the patent laws of the United States, but denies that TigerDirect has stated a cause of action or any grounds for such relief.

## **COUNT VI**

### **Unenforceability of the '492 Patent**

27. Soverain repeats its responses to Paragraphs 1-26 above.

28. Soverain denies the allegations of Paragraph 28.

29. Soverain admits that at least one of the named inventors of the '314, '492 and '639 patents was aware of DEC's IE-Connection Store; states that it is without knowledge or information sufficient to form a belief as to whether such awareness constitutes "sufficient knowledge" as alleged and therefore denies that allegation; and denies the remaining allegations of Paragraph 29.

30. Soverain admits that DEC's IE-Connection Store was not cited during prosecution of the '492 patent. Soverain denies the remaining allegations of Paragraph 30.

31. Soverain denies the allegations of Paragraph 31.

32. Soverain denies the allegations of Paragraph 32.

33. Soverain admits that TigerDirect purports to assert counterclaims under the Federal Declaratory Judgment Act and the patent laws of the United States, but denies that TigerDirect has started a cause of action or any grounds for such relief.

## **COUNT VII**

### **Non-Infringement of the '639 Patent**

34. Soverain repeats its responses to Paragraphs 1-33 above.

35. Soverain denies the allegations of Paragraph 35.

36. Soverain admits that TigerDirect purports to assert counterclaims under the Federal Declaratory Judgment Act and the patent laws of the United States, but denies that TigerDirect has stated a cause of action or any grounds for such relief.

### **COUNT VIII**

#### **Invalidity of the '639 Patent**

37. Soverain repeats its responses to Paragraphs 1-36 above.

38. Soverain denies the allegations of Paragraph 38.

39. Soverain admits that TigerDirect purports to assert counterclaims under the Federal Declaratory Judgment Act and the patent laws of the United States, but denies that TigerDirect has stated a cause of action or any grounds for such relief.

### **COUNT IX**

#### **Unenforceability of the '639 Patent**

40. Soverain repeats its responses to Paragraphs 1-39 above.

41. Soverain denies the allegations of Paragraph 41.

42. Soverain admits that at least one of the named inventors of the '314, '492 and '639 patents was aware of DEC's IE-Connection Store; states that it is without knowledge or information sufficient to form a belief as to whether such awareness constitutes "sufficient knowledge" as alleged and therefore denies that allegation; and denies the remaining allegations of Paragraph 42.

43. Soverain admits that DEC's IE-Connection Store was not cited during prosecution of the '639 patent. Soverain denies the remaining allegations of Paragraph 43.

44. Soverain admits that each of the listed items was known to at least one of the named inventors of the '314, '492 and '639 patents. Soverain states that it is without knowledge or information sufficient to form a belief as to what constitutes "sufficient knowledge" and therefore denies that allegation. Soverain denies the remaining allegations of Paragraph 44.

45. Soverain admits that the listed items were not cited during prosecution of the '639 patent. Soverain denies the remaining allegations of Paragraph 45.

46. Soverain denies the allegations of Paragraph 46.

47. Soverain denies the allegations of Paragraph 47.

48. Soverain admits that TigerDirect purports to assert counterclaims under the Federal Declaratory Judgment Act and the patent laws of the United States, but denies that TigerDirect has started a cause of action or any grounds for such relief.

49. Soverain denies any allegations in TigerDirect's counterclaims that are not specifically admitted herein.

**PRAYER FOR RELIEF**

Soverain denies that TigerDirect is entitled to the relief requested in its Prayer for Relief, Paragraphs a-d inclusive.

**WHEREFORE**, Soverain prays for an Order:

- A. Granting judgment in Soverain's favor on all claims in TigerDirect's counterclaims;
- B. Dismissing TigerDirect's counterclaims with prejudice;
- C. Awarding Soverain its attorneys' fees, expenses and costs in defending against TigerDirect's counterclaims;
- D. Awarding Soverain the relief sought in its Amended Complaint; and
- E. Awarding Soverain such other relief as the Court deems just and proper.

Dated: August 11, 2008

Respectfully submitted,

/s/ Thomas L. Giannetti (w/permission)

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ATTORNEYS FOR PLAINTIFF

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was filed electronically on August 11, 2008 pursuant to Local Rule CV-5(a) and has been served on all counsel who have consented to electronic service.

/s/ Thomas L. Giannetti  
Thomas L. Giannetti